UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

LIFEHOUSE VISTA HEALTHCARE
CENTER, LLC
Employer

and Case 21-RC-63591

SEIU, SERVICE EMPLOYEES
INTERNATIONAL UNION, CTW, CLC
Petitioner

ORDER

The Employer's Request for Review of the Acting Regional Director's Decision and Direction of Election has been carefully considered by the Board. Chairman Pearce would deny review. Member Hayes would grant review. Accordingly, as the Board Members are equally divided and there is no majority to grant review, the Acting Regional Director's Decision and Direction of Election is affirmed. See *United Health Care Services, Inc.*, 326 NLRB 1379 (1998); *Pocono Medical Center*, 305 NLRB 398 (1991); *King Manor Care Center*, 303 NLRB 19 (1991). See also *Durant v. Essex Co.*, 7 Wall. 107, 19 L.Ed. 154 (1869).[1]

MARK GASTON PEARCE, CHAIRMAN

BRIAN E. HAYES, MEMBER

Dated, Washington, D.C., November 17, 2011.

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[1] Member Becker, who is recused and did not participate in the underlying decision, is a member of the present panel but did not participate in deciding the merits of the Employer's motion.

In *New Process Steel v. NLRB*, _ U.S. _, 130 S. Ct. 2635 (2010), the Supreme Court left undisturbed the Board's practice of deciding cases with a two-member quorum when one of the panel members has recused himself. Under the Court's reading of the Act, "the group quorum provision [of Sec. 3(b)] still operates to allow any panel to issue a decision by only two members if one member is disqualified." *New Process Steel*, 130 S. Ct. at 2644; see also *Correctional Medical Services*, 356 NLRB No. 48, slip op. at 1 fn. 1 (2010).